

Article - Estates and Trusts

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§14-405.

(a) The trustee's obligations begin when the trustee accepts the trust property by writing words substantially similar to those specified in § 14-404(e) of this subtitle.

(b) A trustee shall:

- (1) Take control of trust property;
- (2) Register or record title to trust property if appropriate; and
- (3) Collect, hold, manage, invest, and reinvest trust property.

(c) In administering trust property, a trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries.

(d) If a trustee has a special skill or expertise, or is named trustee on the basis of representations of a special skill or expertise, the trustee shall utilize that skill or expertise.

(e) (1) A trustee shall at all times keep trust property separate and distinct from all other property in a manner sufficient to identify it clearly as trust property.

(2) Trust property consisting of an undivided interest is so identified if the trustee's interest is held as a tenant in common.

(3) Trust property subject to recordation is so identified if it is recorded, registered, or held in an account designated in the name of the trustee, followed by the words, "As trustee for _____ (name of beneficiary) under the Maryland Discretionary Trust Act", or similar words.

(f) A trustee, acting in a fiduciary capacity, has all the rights and powers over trust property that an unmarried adult owner has over individually owned property, but a trustee may exercise those rights and powers in a fiduciary capacity only.

(g) A claim based on a contract entered into by a trustee acting in a fiduciary capacity, an obligation arising from the trustee's ownership or control of trust property, or a tort committed in the course of administering the trust, may be asserted by a third person against the trust property by proceeding against the trustee in a fiduciary capacity, whether or not the trustee is personally liable.

(h) At any time, the transferor may require the trustee to furnish bond.

(i) The trustee shall maintain complete records of all trust property and all trust transactions.

(j) (1) The following persons in the order listed may request an accounting of trust property and transactions:

(i) The transferor or the transferor's legal representative;

(ii) The beneficiary or the beneficiary's legal representative;

(iii) The guardian of the person of the beneficiary;

(iv) An adult member of the beneficiary's family or that family member's legal representative; or

(v) A person interested in the trust property or a person interested in the welfare of the beneficiary, either of whom the court determines to have a legitimate interest.

(2) The trustee shall provide a written accounting of all trust property and trust transactions for the previous year, or for a longer period if needed for tax purposes, upon request by and at reasonable times to a person authorized in paragraph (1) of this subsection.

(3) The trustee shall give the transferor, successor trustee, or court a complete accounting, including a written accounting of all trust property, a description and records of all trust transactions, and any other relevant documents and information concerning the trust upon the resignation or removal of the trustee, the termination of the trust, or the demand of the court.

(4) The trustee may petition the court for approval of final accounts.

(5) Upon removal of a trustee by a court, the court shall require:

(i) An accounting of trust property;

(ii) The delivery of the trust property and records to the successor trustee; and

(iii) The execution of all instruments required for transfer of the trust property.

(k) Upon petition of the trustee or any person who may petition for an accounting as specified in subsection (j) of this section, the court, after notice to those persons as directed by the court, may:

(1) Issue instructions to the trustee;

(2) Review the propriety of the acts of a trustee; and

(3) Review the reasonableness of the trustee's compensation or the compensation of other persons.

(l) A successor trustee may not be held liable for the acts or omissions of any predecessor trustee.

(m) Except as otherwise provided in the registration, declaration, or other instrument of transfer creating the trust, or by court order, a trustee:

(1) Is entitled to reimbursement from trust property for reasonable expenses incurred in the performance of fiduciary services; and

(2) Has a noncumulative election, to be made no later than 6 months after the end of each calendar year, to charge reasonable compensation, not to exceed the maximum commissions for trustee services provided for at the time by Maryland law, for fiduciary services performed during that calendar year.

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